

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 4

Citations Affected: IC 26-1-9-402.

Synopsis: Secured transactions. Conference committee report for ESB 4. Requires a consignee who receives a motor vehicle that has a value over \$500 under a consignment from a consignor who is not a merchant to: (1) notify the consignor of the filing requirements for protection of consignments; (2) provide the form required by the Uniform Commercial Code for filing; and (3) obtain the signature of the consignor on the consignment contract acknowledging the consignee's notification of the consignor of the filing requirements and the provision of the form to the consignor. Exempts a consignee if the consignee's creditors know the consignee is substantially engaged in the business of selling the goods of others. Provides for the electronic filing of financing statements. (This conference committee report specifies that "motor vehicle" applies to one or more motor vehicles and provides for the electronic filing of financing statements.)

Effective: July 1, 1999.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 4 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Page 2, line 11, delete "goods that are" and insert "**a**".
- 2 Page 2, line 11, delete "vehicles" and insert "**vehicle**".
- 3 Page 2, line 12, delete "and".
- 4 Page 2, line 12, delete "have" and insert "**has**".
- 5 Page 2, line 19, delete "goods" and insert "**motor vehicle**".
- 6 Page 2, after line 29, begin a new paragraph and insert:
- 7 "SECTION 2. IC 26-1-9-402 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 402. (1) Except as
- 9 provided in subsection (2), a financing statement is sufficient if it is on
- 10 the form prescribed by the secretary of state and contains the following:
- 11 (a) The debtor's legal name and address.
- 12 (b) The name and address of the secured party from which
- 13 information concerning the security interest may be obtained.
- 14 (c) A statement indicating the types or describing the items of
- 15 collateral.
- 16 (d) The debtor's signature.
- 17 A financing statement may be filed before a security agreement is made
- 18 or a security interest otherwise attaches. When the financing statement
- 19 covers crops growing or to be grown, the statement must also contain
- 20 a description of the real estate concerned. When the financing
- 21 statement covers timber to be cut or covers minerals or the like
- 22 (including oil and gas) or accounts subject to IC 26-1-9-103(5), or
- 23 when the financing statement is filed as a fixture filing (IC 26-1-9-313)
- 24 and the collateral is goods which are or are to become fixtures, the
- 25 statement must also comply with subsection (4).

1 (2) A financing statement which otherwise complies with
2 subsection (1) is sufficient when it is signed by the secured party
3 instead of the debtor when it is filed to perfect a security interest in any
4 one (1) of the following:

5 (a) Collateral already subject to a security interest in another
6 jurisdiction when it is brought into this state, or when the
7 debtor's location is changed to this state. Such a financing
8 statement must state that the collateral was brought into this state
9 or that the debtor's location was changed to this state under such
10 circumstances.

11 (b) Proceeds under IC 26-1-9-306 if the security interest in the
12 original collateral was perfected. Such a financing statement
13 must describe the original collateral.

14 (c) Collateral as to which the filing has lapsed.

15 (d) Collateral acquired after a change of name, identity, or
16 corporate structure of the debtor (subsection (6)).

17 (e) Collateral under a security agreement signed by the debtor
18 and authorizing the secured party to file a financing statement.
19 Such a financing statement must state that it is filed in
20 accordance with a security agreement signed by the debtor and
21 authorizing the filing of the statement.

22 (3) A financing statement may be amended by filing a form
23 (Uniform Commercial Code 3 or Uniform Commercial Code 4)
24 referencing the original financing statement number and date of filing.
25 An amendment that changes only the secured party information must
26 be signed by the secured party. All other amendments must be signed
27 by the debtor and the secured party. An amendment does not extend the
28 period of effectiveness of a financing statement. If any amendment
29 adds collateral, it is effective as to the added collateral only from the
30 filing date of the amendment. In IC 26-1-9, unless the context
31 otherwise requires, the term "financing statement" means the original
32 financing statement and any amendments.

33 (4) A financing statement covering timber to be cut or covering
34 minerals or the like (including oil and gas) or accounts subject to
35 IC 26-1-9-103(5) or a financing statement filed as a fixture filing (IC
36 26-1-9-313) must show that it covers this type of collateral, must recite
37 that it is to be filed for record in the real estate records, and must
38 contain a description of the real estate sufficient if it were contained in
39 a mortgage of the real estate to give constructive notice of the mortgage
40 under the law of this state. If the debtor does not have an interest of
41 record in the real estate, the financing statement must show the name
42 of a record owner.

43 (5) A mortgage is effective as a financing statement filed as a
44 fixture filing from the date of its recording if:

45 (a) the goods are described in the mortgage by item or type; and

46 (b) the goods are or are to become fixtures related to the real
47 estate described in the mortgage;

48 (c) the mortgage complies with the requirements for a financing
49 statement in this section other than a recital that it is to be filed
50 in the real estate records; and

51 (d) the mortgage is duly recorded.

1 No fee with reference to the financing statement is required other than
2 the regular recording and satisfaction fees with respect to the mortgage.

3 (6) A financing statement sufficiently shows the name of the
4 debtor if it gives the individual, partnership, or corporate name of the
5 debtor, whether or not it adds other trade names or the names of
6 partners. Where the debtor so changes his name or in the case of an
7 organization its name, identity, or corporate structure that a filed
8 financing statement becomes seriously misleading, the filing is not
9 effective to perfect a security interest in collateral acquired by the
10 debtor more than four (4) months after the change, unless a new
11 appropriate financing statement is filed before the expiration of that
12 time. A filed financing statement remains effective with respect to
13 collateral transferred by the debtor even though the secured party
14 knows of or consents to the transfer.

15 (7) A financing statement substantially complying with the
16 requirements of this section is effective even though it contains minor
17 errors which are not seriously misleading.

18 (8) The provisions of IC 36-2-11-15 requiring the identification of
19 draftsmen of instruments transferring interests in real estate do not
20 apply to filings under IC 26-1.

21 **(9) A financing statement may be transmitted and filed**
22 **electronically. A signature requirement under this section is**
23 **satisfied by:**

24 **(A) an intent by the filing party to sign the filing under**
25 **IC 26-1-1-201(39); and**

26 **(B) the entry of the filing party's name on the electronic form**
27 **in a signature box or other place indicated by the secretary**
28 **of state."**

(Reference is to ESB 4 as printed March 24, 1999.)

Conference Committee Report
on
Engrossed Senate Bill 4

Signed by:

Senator Lawson C

Representative Crosby

Senator Lanane

Representative Behning

Senate Conferees

House Conferees